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EXAMINER

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2612

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/637,606	Applicant(s) KIMURA ET AL.	
	Examiner Nelson D. Hernandez	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8,10-13,15,16,18-25 and 35-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,10-13,15,16,18-25 and 35-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/17/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The Examiner acknowledges the amendments on the claims filed on November 7, 2005. Claims 1-8, 10-13, 15, 16 and 18-25 have been amended. Claims 4, 9, 13, 14, 17 and 26-34 have been cancelled. Claims 35-54 have been newly added.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 7, 12 and 15 have been considered but are moot in view of the new ground(s) of rejection.
3. Applicant's arguments filed November 7, 2005 have been fully considered but they are not persuasive.

Regarding claims 18, 22 and 25, Applicant argues the following:

Tomat fails to teach, or even to have suggested, such features, and the Office Action fails to explain where such features (e.g., "in advance" and "prior to") are believed to be disclosed. As indicated above, Tomat teaches only three types of processing that may be undertaken on downloaded image data: Auto-correct, Rotate plus 90 degrees, and Rotate minus 90 degrees. In Tomat, these operations are undertaken on image data that has been downloaded into the computer system. As such, Tomat cannot reasonably be considered to teach, or even to have suggested, either a standard processing condition or a current processing condition under which input data is manipulated.

Further, Tomat does not disclose the storage device recited in, for example, claim 18. Also, there is nothing in Tomat to teach, or even to have suggested, the general concept of a current processing condition under which subsequently input data undergo a given type of image processing. As such, Tomat cannot reasonably be considered to teach, or even to have suggested, the current processing condition setting device recited in claim 18. Because Tomat does not disclose a standard processing condition or a current processing condition different from the standard processing condition, there is also no suggestion of any selection device, as is recited among other features in claim 18, to optionally select one of the standard processing condition or the current processing condition prior to input of the subsequently input data. Again here, Tullis does not overcome the shortfalls in the application of Tomat to the subject matter recited in independent claims 18, 22 and 25.

The Examiner disagrees, as indicated in the Office Action, Tomat discloses that the input device (Fig. 2: 18) that sequentially inputs data sequentially output from an electronic camera (Fig. 1: 14); a storage device (Fig. 2: 6) that stores in advance standard processing condition (i.e. selection of file name, format, location) under which the input data undergo standard processing. Selection of file name, format, location are considered image-processing operation. Tomat also discloses a current processing condition setting device (Figs. 13, 14, 17, 31, 32 and 33) that sets in advance current processing condition under which subsequently input data are to undergo a given type of processing, prior to an input of the subsequently input data (as shown in fig. 13, the above mentioned processing are set in advance current processing condition under

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which subsequently input data are to undergo a given type of processing, prior to an input of the subsequently input data) (See col. 11, line 1 – col. 12, line 20). Therefore the rejections on claims 18, 22 and 25 are maintained.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 12, 15, 22, 25 are 49 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Regarding claim 12, claim 12 recites “A recording medium that records therein an information processing program for an information processing apparatus that inputs and stores image data output from an electronic camera connected to the information processing apparatus, the information processing program comprising: ...”.

A recording medium as claimed does not define structural and functional interrelationships between the data structure, the computer software and hardware components, which permit the data structure to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process; therefore the invention as claimed is non-statutory. For examining purposes the claim will be read as “ A recording medium encoded with an information processing program that realizes an image processing apparatus that inputs and stores image data output from an electronic camera connected to the information processing apparatus, the information processing program comprising: ...”.

Regarding claim 15, claim 15 recites “A computer readable medium comprising an information processing program for an information processing apparatus that inputs and stores image data output from an electronic camera connected to the information processing apparatus, the information processing program comprising: ...”.

A computer-readable medium as claimed does not define structural and functional interrelationships between the data structure, the computer software and hardware components, which permit the data structure to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process; therefore the invention as claimed is non-statutory. For examining purposes the claim will be read as “A computer readable medium encoded with an information processing program that realizes an image processing apparatus that inputs and stores image data output from an electronic camera connected to the information processing apparatus, the information processing program comprising: ...”.

Regarding claim 22, claim 22 recites “a recording medium that records therein an image-processing program for an image processing apparatus that inputs and processes data sequentially output from an electronic camera, the image processing program comprising: ...”.

A recording medium as claimed does not define structural and functional interrelationships between the data structure, the computer software and hardware components, which permit the data structure to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer

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program itself is not a process; therefore the invention as claimed is non-statutory. For examining purposes the claim will be read as "A recording medium encoded with an information processing program that realizes an image processing apparatus that inputs and processes data sequentially output from an electronic camera, the image processing program comprising: ...".

Regarding claim 25, claim 25 recites "A computer-readable medium comprising an information processing program for an information processing device that inputs and processes data sequentially output from an electronic camera, the information processing program comprising: ...".

A computer-readable medium as claimed does not define structural and functional interrelationships between the data structure, the computer software and hardware components, which permit the data structure to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process; therefore the invention as claimed is non-statutory. For examining purposes the claim will be read as "A computer readable medium encoded with an information processing program that realizes an image processing device that inputs and processes data sequentially output from an electronic camera, the information processing program comprising: ...".

Regarding claim 49, claim 49 recites "A recording medium that records therein an information processing program for an information processing apparatus, the information processing program comprising: ...".

A recording medium as claimed does not define structural and functional

interrelationships between the data structure, the computer software and hardware components, which permit the data structure to be realized. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process; therefore the invention as claimed is non-statutory. For examining purposes the claim will be read as "A recording medium encoded with an information processing program that realizes an image processing apparatus, the image processing program comprising: ...".

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 18-20 and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Tomat, US Patent 6,784,925 B1.**

Regarding claim 18, Tomat discloses an information processing apparatus (See computer system shown in fig. 1: 1), comprising: an input device (Fig. 2: 18) that sequentially inputs data sequentially output from an electronic camera (Fig. 1: 14); a storage device (Fig. 2: 6) that stores in advance standard processing condition (i.e. selection of file name, format, location) (selection of file name, format, location are

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considered image processing operations) under which the input data undergo standard image processing; a current processing condition setting device (Figs. 13, 14, 17, 31, 32 and 33) that sets in advance current processing condition under which subsequently input data are to undergo a given type of processing, prior to an input of the subsequently input data; a selection device (Figs. 13, 14, 17, 30, 31, 32, 33 and 50) that can optionally select either one of said standard processing condition (Fig. 50 teaches auto correct and image rotation, and fig. 13 teaches selection of location, format and file name to be set prior to download the images from the computer) and said current processing condition prior to the input of the subsequently input data; and a processing device (Fig. 2: 15) that processes the subsequently input data input via the input device in conformance to the processing condition selected by said selection device (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4; col. 21, line 54 – col. 22, line 37).

Regarding claim 19, Tomat discloses a control device (Figs. 13, 14, 17, 31, 32 and 33) that stores the current processing condition (i.e. selection of file name, format, location and image correction) set by the current processing conditions setting device in the storage device as the standard processing condition (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4; col. 21, line 54 – col. 22, line 37).

Regarding claim 20, Tomat discloses a second storage device that stores data obtained through processing performed under either the standard processing condition or the current processing condition (In figs. 1 and 2 Tomat teaches floppy drive which can be selected as a location to store the image data downloaded by the to the computer using the program as shown in fig. 13) (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4; col. 21, line 54 – col. 22, line 37).

Regarding claim 22, Tomat discloses a recording medium (Fig. 2: 6) encoded with an information processing program (Figs. 13, 14, 17, 31, 32 and 33) that realizes an image processing apparatus (Computer system in fig. 1:1) that inputs and processes data sequentially output from an electronic camera (Fig. 1: 14), the image processing program comprising: a first instruction for setting in advance current processing condition (i.e. selection of file name, format and location) (selection of file name, format, location are considered image processing operations) under which subsequently input data are to undergo a given type of image processing prior to an input of the subsequently input data; a second instruction for enabling optional selection of either standard processing condition for implementing standard image processing on input data stored in advance in a storage device or the current processing condition, prior to the input of the subsequently input data (See fig. 13); a third instruction for sequentially inputting data sequentially (Using digital camera interface shown in fig. 2: 18) output from the electronic camera; and a fourth instruction for processing (Using CPU shown in

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fig. 2: 15) the subsequently input data under selected processing condition (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4; col. 21, line 54 – col. 22, line 37).

Regarding claim 23, Tomat discloses that the information processing program further comprises a fifth instruction for storing in the storage device the current processing condition set in response to the first instruction as the standard processing condition (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4; col. 21, line 54 – col. 22, line 37).

Regarding claim 24, Tomat discloses that the information processing program further comprises an instruction for storing in the storage device data having undergone processing performed in response to the forth instruction (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4; col. 21, line 54 – col. 22, line 37).

Regarding claim 25, Tomat discloses a computer readable medium (Fig. 2: 6) encoded with an information processing program (Figs. 13, 14, 17, 31, 32 and 33) that realizes an image processing device (Computer system in fig. 1:1) that inputs and processes data sequentially output from an electronic camera (Fig. 1: 14), the information processing program comprising: a first instruction for setting in advance a current processing condition (i.e. selection of file name, format and location) (selection

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of file name, format, location are considered image processing operations) under which subsequently input data are to undergo a given type of image processing prior to an input of the subsequently input data; a second instruction for enabling optional selection (Using interface shown in figs. 13, 14, 17, 30, 31, 32, 33 and 50) of either standard image processing condition for implementing standard processing on input data saved in advance in a storage device or the current processing condition, prior to the input of the subsequently input data; a third instruction for sequentially inputting data sequentially (Using digital camera interface in fig. 2: 18) output from the electronic camera; and a fourth instruction for processing the subsequently input data under selected processing condition (Using CPU in fig. 2: 15) (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4; col. 21, line 54 – col. 22, line 37).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1-3, 5, 6, 12, 13, 15, 16, 35, 36 and 39-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomat, US Patent 6,784,925 B1 in view of Ueno, US Patent 5,479,206.**

Regarding claim 1, Tomat discloses an information processing apparatus (See computer system shown in fig. 1: 1), comprising: an input device (Fig. 2: 18) that inputs image data output from an electronic camera (Fig. 1: 14); storage device (Fig. 2: 6) that stores the input image data; an image processing condition setting device (Figs. 13, 14, 17, 31, 32 and 33) that sets an image processing condition (i.e. selection of file name, format, location) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user; and a control device (col. 11, line 64 – col. 12, line 20; col. 18, lines 7-63; col. 22, line 34 – col. 23, line 10) that stores the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Tomat fails to teach that the image processing condition setting device sets an image processing condition related to at least color processing.

However, Ueno discloses an information processing apparatus (Fig. 2: 30), comprising: an input device (Fig. 2: 33) that inputs image data output from an electronic camera (Fig. 2: 10); storage device (Fig. 2: 32) that stores the input image data; an image processing condition setting device (See figs. 10-24) that sets an image processing condition (i.e. exposure, black balance, white balance, magnification) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user; and a control device (Fig. 3 teaches setting the camera parameters (step 62) prior to transferring images to the computer (steps 66, 73

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or 75); see col. 20, line 35 – col. 21, line 47) that stores the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 13, lines 21-30; col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Therefore, taking the combined teaching of Tomat in view of Ueno as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by having the image processing condition setting device setting an image processing condition related to at least color processing. The motivation to do so would have been to perform processes, image correction and photography control from the computer side as suggested by Ueno (Col. 4, lines 28-40; col. 5, lines 18-23).

Regarding claim 2, the combined teaching of Tomat in view of Ueno as applied to claim 1 teaches a store condition setting that sets at least one of a storage location at which the input image data is stored in the storage device, a stored file name of the input image data and a store format of the input image (See Tomat, figs. 13 and 14), wherein the control device stores the input image data under setting by the store condition setting device (col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Regarding claim 3, the combined teaching of Tomat in view of Ueno as applied to claim 1 teaches that the store condition setting device sets at least one of a drive name and a folder name in the storage device as the storage location in the storage device (See Tomat, figs. 13 and 14; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Regarding claim 5, the combined teaching of Tomat in view of Ueno as applied to claim 1 teaches that the control device processes a series of image data output from the electronic camera under the image processing condition set by the image processing condition-setting device (See Tomat, col. 11, line 64 – col. 12, line 20; col. 18, lines 7-63; col. 22, line 34 – col. 23, line 10; see also Ueno, col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Regarding claim 6, limitations can be found in claim 1.

Regarding claim 12, Tomat discloses a recording medium (Fig. 2: 6) encoded with an information processing program (Figs. 13, 14, 17, 31, 32 and 33) that realizes an image processing apparatus (Computer system in fig. 1:1) that inputs and stores image data output from an electronic camera (Fig. 1: 14) connected to the information processing apparatus, the information processing program comprising: a first instruction for setting an image processing condition (i.e. selection of file name, format and location) (selection of file name, format, location are considered image processing operations) before the input image data is stored in a storage device, the image processing condition being optionally designated by a user; and a second instruction for storing the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Tomat fails to teach that the first instruction for setting an image processing condition is related to at least color processing.

However, Ueno discloses an information processing apparatus (Fig. 2: 30), comprising: an input device (Fig. 2: 33) that inputs image data output from an electronic camera (Fig. 2: 10); storage device (Fig. 2: 32) that stores the input image data; an image processing condition setting device (See figs. 10-24) that sets an image processing condition (i.e. exposure, black balance, white balance, magnification) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user; and a control device (Fig. 3 teaches setting the camera parameters (step 62) prior to transferring images to the computer (steps 66, 73 or 75); see col. 20, line 35 – col. 21, line 47) that stores the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 13, lines 21-30; col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Therefore, taking the combined teaching of Tomat in view of Ueno as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by having the image processing condition setting device setting an image processing condition related to at least color processing. The motivation to do so would have been to perform processes, image correction and photography control from the computer side as suggested by Ueno (Col. 4, lines 28-40; col. 5, lines 18-23).

Regarding claim 13, limitations can be found in claim 2.

Regarding claim 15, Tomat discloses a computer readable medium (Fig. 2: 6) encoded with an information processing program (Figs. 13, 14, 17, 31, 32 and 33) that realizes an image processing apparatus (Computer system in fig. 1:1) that inputs and

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stores image data output from an electronic camera (Fig. 1: 14) connected to the information processing apparatus, the information processing program comprising: a first instruction for setting an image processing condition (i.e. selection of file name, format and location) (selection of file name, format, location are considered image processing operations) before the input image data is stored in a storage device, the image processing condition being optionally designated by a user; and a second instruction for storing the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Tomat fails to teach that the first instruction for setting an image processing condition is related to at least color processing.

However, Ueno discloses an information processing apparatus (Fig. 2: 30), comprising: an input device (Fig. 2: 33) that inputs image data output from an electronic camera (Fig. 2: 10); storage device (Fig. 2: 32) that stores the input image data; an image processing condition setting device (See figs. 10-24) that sets an image processing condition (i.e. exposure, black balance, white balance, magnification) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user; and a control device (Fig. 3 teaches setting the camera parameters (step 62) prior to transferring images to the computer (steps 66, 73 or 75); see col. 20, line 35 – col. 21, line 47) that stores the input image data in the

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storage device after the input image data has undergone image processing under the set image processing condition (Col. 13, lines 21-30; col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Therefore, taking the combined teaching of Tomat in view of Ueno as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by having the image processing condition setting device setting an image processing condition related to at least color processing. The motivation to do so would have been to perform processes, image correction and photography control from the computer side as suggested by Ueno (Col. 4, lines 28-40; col. 5, lines 18-23).

Regarding claim 16, limitations can be found in claim 2.

Regarding claim 35, claim 35 is written as a Markush type claim by using the expression "...wherein the color processing includes at least one of gradation adjustment processing or color adjustment processing" (see lines 1-3), meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

The combined teaching of Tomat in view of Ueno as applied to claim 1 teaches color adjustment processing (See Ueno, figs. 13-21; col. 17, line 56 – col. 18, line 37).

Regarding claim 36, limitations can be found in claim 1.

Regarding claim 39, claim 39 is written as a Markush type claim by using the

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expression "...wherein the color processing includes at least on of gradation adjustment processing or color adjustment processing" (see lines 1-3), meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

The combined teaching of Tomat in view of Ueno as applied to claim 12 teaches color adjustment processing (See Ueno, figs. 13-21; col. 17, line 56 – col. 18, line 37).

Regarding claim 40, limitations can be found in claim 12.

Regarding claim 41, claim 41 is written as a Markush type claim by using the expression "...wherein the color processing includes at least on of gradation adjustment processing or color adjustment processing" (see lines 1-3), meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

The combined teaching of Tomat in view of Ueno as applied to claim 15 teaches color adjustment processing (See Ueno, figs. 13-21; col. 17, line 56 – col. 18, line 37).

Regarding claim 42, limitations can be found in claim 15.

Regarding claim 43, Tomat discloses an information processing apparatus

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(Computer system in fig. 1:1), comprising: an input device (Fig. 2: 18) that sequentially inputs image data sequentially output from an external electronic camera (Fig. 1: 14); a selection device (interface shown in figs. 13, 14, 17, 30, 31, 32, 33 and 50) that selects one of a plurality of image processing conditions (i.e. selection of file name, format and location) (selection of file name, format, location are considered image processing operations) as to the sequentially input image data prior to sequentially inputting the image data; and a processing device (Fig. 2: 15) that processes the subsequently input image data input via the input device in conformance to the image processing condition selected by the selection device (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Tomat fails to teach that the image processing condition is related to at least color processing.

However, Ueno discloses an information processing apparatus (Fig. 2: 30), comprising: an input device (Fig. 2: 33) that inputs image data output from an electronic camera (Fig. 2: 10); storage device (Fig. 2: 32) that stores the input image data; an image processing condition setting device (See figs. 10-24) that sets an image processing condition (i.e. exposure, black balance, white balance, magnification) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user; and a control device (Fig. 3 teaches setting the camera parameters (step 62) prior to transferring images to the computer (steps 66, 73 or 75); see col. 20, line 35 – col. 21, line 47) that stores the input image data in the

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storage device after the input image data has undergone image processing under the set image processing condition (Col. 13, lines 21-30; col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Therefore, taking the combined teaching of Tomat in view of Ueno as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by having the image processing condition setting device setting an image processing condition related to at least color processing. The motivation to do so would have been to perform processes, image correction and photography control from the computer side as suggested by Ueno (Col. 4, lines 28-40; col. 5, lines 18-23).

Regarding claim 44, claim 44 is written as a Markush type claim by using the expression "...wherein the color processing includes at least one of gradation adjustment processing or color adjustment processing" (see lines 1-3), meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

The combined teaching of Tomat in view of Ueno as applied to claim 43 teaches color adjustment processing (See Ueno, figs. 13-21; col. 17, line 56 – col. 18, line 37).

Regarding claim 45, Tomat discloses a storage device (Fig. 2: 6) that stores the plurality of image processing conditions (see col. 6, lines 34-57).

Regarding claim 46, Tomat discloses an information processing system (See

fig. 1) that includes an electronic camera (Fig. 1: 14) that captures an image of a subject and generates image data, and an image processing apparatus (Computer system in fig. 1:1) that is provided independently from the electronic camera and inputs the image data output from the electronic camera, comprising: a selection device (interface shown in figs. 13, 14, 17, 30, 31, 32, 33 and 50) that selects one of a plurality of image processing conditions (i.e. selection of file name, format and location) (selection of file name, format, location are considered image processing operations) as to the image data prior to inputting the image data into the image processing apparatus; and a processing device (Fig. 2: 15) that processes the image data input into the image processing apparatus in conformance to the image processing condition selected by the selection device (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Tomat fails to teach that the image processing condition is related to at least color processing.

However, Ueno discloses an information processing apparatus (Fig. 2: 30), comprising: an input device (Fig. 2: 33) that inputs image data output from an electronic camera (Fig. 2: 10); storage device (Fig. 2: 32) that stores the input image data; an image processing condition setting device (See figs. 10-24) that sets an image processing condition (i.e. exposure, black balance, white balance, magnification) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user; and a control device (Fig. 3 teaches setting the

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camera parameters (step 62) prior to transferring images to the computer (steps 66, 73 or 75); see col. 20, line 35 – col. 21, line 47) that stores the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 13, lines 21-30; col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Therefore, taking the combined teaching of Tomat in view of Ueno as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by having the image processing condition setting device setting an image processing condition related to at least color processing. The motivation to do so would have been to perform processes, image correction and photography control from the computer side as suggested by Ueno (Col. 4, lines 28-40; col. 5, lines 18-23).

Regarding claim 47, claim 47 is written as a Markush type claim by using the expression "...wherein the color processing includes at least one of gradation adjustment processing or color adjustment processing" (see lines 1-3), meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

The combined teaching of Tomat in view of Ueno as applied to claim 46 teaches color adjustment processing (See Ueno, figs. 13-21; col. 17, line 56 – col. 18, line 37).

Regarding claim 48, Tomat discloses a storage device (Fig. 2: 6) that stores the

plurality of image processing conditions (see col. 6, lines 34-57).

Regarding claim 49, Tomat discloses a recording medium (Fig. 2: 6) encoded with an information processing program (Figs. 13, 14, 17, 31, 32 and 33) that realizes an image processing apparatus (Computer system in fig. 1:1), the image processing program comprising: a first instruction (using camera interface shown in fig. 2: 18) for sequentially inputting image data sequentially output from an external electronic camera (Fig. 1: 14); a second instruction for selecting one of a plurality of image processing conditions (i.e. selection of file name, format and location) (selection of file name, format, location are considered image processing operations) as to the sequentially input image data prior to sequentially inputting the image data; and a third instruction for processing the subsequently input image data in conformance to the selected image processing condition (Using processor shown in fig. 2: 15) (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Tomat fails to teach that the image processing condition is related to at least color processing.

However, Ueno discloses an information processing apparatus (Fig. 2: 30), comprising: an input device (Fig. 2: 33) that inputs image data output from an electronic camera (Fig. 2: 10); storage device (Fig. 2: 32) that stores the input image data; an image processing condition setting device (See figs. 10-24) that sets an image processing condition (i.e. exposure, black balance, white balance, magnification) before the input image data is stored in the storage device, the image processing condition

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being optionally designated by a user; and a control device (Fig. 3 teaches setting the camera parameters (step 62) prior to transferring images to the computer (steps 66, 73 or 75); see col. 20, line 35 – col. 21, line 47) that stores the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 13, lines 21-30; col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Therefore, taking the combined teaching of Tomat in view of Ueno as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by having the image processing condition setting device setting an image processing condition related to at least color processing. The motivation to do so would have been to perform processes, image correction and photography control from the computer side as suggested by Ueno (Col. 4, lines 28-40; col. 5, lines 18-23).

Regarding claim 50, claim 50 is written as a Markush type claim by using the expression "...wherein the color processing includes at least one of gradation adjustment processing or color adjustment processing" (see lines 1-3), meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

The combined teaching of Tomat in view of Ueno as applied to claim 49 teaches color adjustment processing (See Ueno, figs. 13-21; col. 17, line 56 – col. 18, line 37).

Regarding claim 51, Tomat discloses a forth instruction for storing (using storage device shown in fig. 2: 6) the plurality of image processing conditions (see col. 6, lines 34-57).

Regarding claim 52, Tomat discloses an information processing method used in an information processing system (Fig. 1) that includes an electronic camera (Fig. 1: 14) that captures an image of a subject and generates image data, and an image processing apparatus (Computer system in fig. 1:1) that is provided independently from the electronic camera and inputs the image data output from the electronic camera, comprising: selecting one of a plurality of image processing conditions (i.e. selection of file name, format and location) (selection of file name, format, location are considered image processing operations) as to the image data prior to inputting the image data into the image processing apparatus; and processing the image data input into the image processing apparatus in conformance to the selected image processing condition (using processor shown in fig. 2: 15) (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 – col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Tomat fails to teach that the image processing condition is related to at least color processing.

However, Ueno discloses an information processing apparatus (Fig. 2: 30), comprising: an input device (Fig. 2: 33) that inputs image data output from an electronic camera (Fig. 2: 10); storage device (Fig. 2: 32) that stores the input image data; an image processing condition setting device (See figs. 10-24) that sets an image

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processing condition (i.e. exposure, black balance, white balance, magnification) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user; and a control device (Fig. 3 teaches setting the camera parameters (step 62) prior to transferring images to the computer (steps 66, 73 or 75); see col. 20, line 35 – col. 21, line 47) that stores the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 13, lines 21-30; col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Therefore, taking the combined teaching of Tomat in view of Ueno as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by having the image processing condition setting device setting an image processing condition related to at least color processing. The motivation to do so would have been to perform processes, image correction and photography control from the computer side as suggested by Ueno (Col. 4, lines 28-40; col. 5, lines 18-23).

Regarding claim 53, claim 53 is written as a Markush type claim by using the expression "...wherein the color processing includes at least one of gradation adjustment processing or color adjustment processing" (see lines 1-3), meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

The combined teaching of Tomat in view of Ueno as applied to claim 52 teaches color adjustment processing (See Ueno, figs. 13-21; col. 17, line 56 – col. 18, line 37).

Regarding claim 54, Tomat discloses storing the plurality of image processing conditions in a storage device (fig. 2: 6) (see col. 6, lines 34-57).

10. Claims 7, 8, 10, 11, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomat, US Patent 6,784,925 B1 in view of Tullis, US Patent 6,533,243 B1.

Regarding claim 7, Tomat discloses an information processing system (Fig. 1), comprising: an electronic camera (Fig. 1: 14) that captures an image of a subject and generates image data; and an image processing apparatus (Computer system in fig. 1:1) that inputs the image data output from the electronic camera, the image processing apparatus comprises an input device (Fig. 2: 18) that inputs the image data output from the electronic camera, a storage device (Fig. 2: 6) that stores the input image data, an image processing condition setting device (Figs. 13, 14, 17, 31, 32 and 33) that sets an image processing condition (i.e. selection of file name, format and location) (selection of file name, format, location are considered image processing operations) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user (Using interface shown in figs. 13, 14, 17, 30, 31, 32, 33 and 50), and a control device that stores the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 5, line 35 – col. 6, line 27; col. 6, line 34 – col. 7, line 11; col. 8, line 66 –

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col. 9, line 25; col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Tomat fails to teach that the electronic camera outputs the generated image data to the image processing apparatus without recording the generated image data in a nonvolatile storage device internally provided in the electronic camera or detachably mounted thereto and that the image processing condition setting device sets an image processing condition related to at least color processing.

However, Tullis teaches an image pickup apparatus (Fig. 2: 40) comprising: image pickup means (Fig. 2: 48) for image picking up an object image formed through an optical system (Fig. 2: 44) and acquiring image information of said object image; and communication means (Fig. 2: 72) for transmitting the image information obtained in said image pickup means to an external unit (Fig. 2: 10) and receiving the image information after an arbitrary image process from the external unit, wherein the camera transmits directly the image data without having recording said image data to a non-volatile memory (Col. 3, line 62 – col. 4, line 20; col. 5, lines 13-23; col. 6, lines 13-63).

Therefore, taking the combined teaching of Tomat in view of Tullis as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by transferring the captured image data from the camera directly to the computer without recording generated image data in a nonvolatile memory. The motivation to do so would help the information processing system to increase the speed of the system to store the image data and also would help minimize the size of the

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digital camera since the captured images would be transferred directly to the computer system.

The combined teaching of Tomat in view of Tullis fails to teach that the image processing condition setting device sets an image processing condition related to at least color processing.

However, Ueno discloses an information processing apparatus (Fig. 2: 30), comprising: an input device (Fig. 2: 33) that inputs image data output from an electronic camera (Fig. 2: 10); storage device (Fig. 2: 32) that stores the input image data; an image processing condition setting device (See figs. 10-24) that sets an image processing condition (i.e. exposure, black balance, white balance, magnification) before the input image data is stored in the storage device, the image processing condition being optionally designated by a user; and a control device (Fig. 3 teaches setting the camera parameters (step 62) prior to transferring images to the computer (steps 66, 73 or 75); see col. 20, line 35 – col. 21, line 47) that stores the input image data in the storage device after the input image data has undergone image processing under the set image processing condition (Col. 13, lines 21-30; col. 17, line 57 – col. 18, line 37; col. 20, line 28 – col. 21, line 47; col. 22, line 33 – col. 23, line 25).

Therefore, taking the combined teaching of Tomat in view of Tullis and further in view of Ueno as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tomat by having the image processing condition setting device setting an image processing condition related to at least color processing. The motivation to do so would have been to perform processes, image

correction and photography control from the computer side as suggested by Ueno (Col. 4, lines 28-40; col. 5, lines 18-23).

Regarding claim 8, limitations can be found in claim 7.

Regarding claim 10, Tomat discloses that the control device processes s a series of image data output from the electronic camera under the image processing condition set by the image processing condition setting device (Col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Regarding claim 11, Tomat discloses that the image processing condition is set in advance before the electronic camera starts to output the series image data (Col. 10, line 66 – col. 11, line 26; col. 11, line 49 – col. 12, line 12; col. 12, line 45 – col. 13, line 4).

Regarding claim 37, claim 37 is written as a Markush type claim by using the expression "...wherein the color processing includes at least on of gradation adjustment processing or color adjustment processing" (see lines 1-3), meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

The combined teaching of Tomat in view of Tullis and further Ueno as applied to claim 7 teaches color adjustment processing (See Ueno, figs. 13-21; col. 17, line 56 – col. 18, line 37).

Regarding claim 38, limitations can be found in claim 7.

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomat, US Patent 6,784,925 B1.

Regarding claim 21, Tomat does not explicitly disclose that the control device reinstates contents of said standard processing conditions, which have been replaced with contents of the current processing condition, contents of the standard processing condition originally stored in advance in said storage device, as necessary but in fig. 50 teaches editing the image data (Rotating and correcting) in a drop down list, wherein said list also teaches an "Undo" button which can be used to reinstate the contents of the standard processing conditions, which have been replaced with contents of said current processing conditions, contents of the standard processing conditions originally stored in advance in said storage device, as necessary after been corrected and/or edited (Col. 21, line 54 – col. 22, line 37).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reinstate previous settings or process made on an image by using an "Undo" application. The motivation to do so would help the information processing system to avoid unwanted process made when editing the images.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernandez whose telephone number is (571) 272-7311. The examiner can normally be reached on 8:30 A.M. to 6:00 P.M..

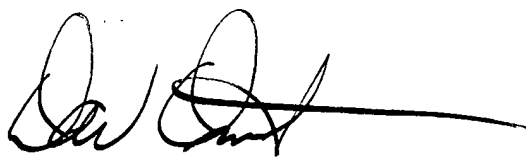
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nelson D. Hernandez
Examiner
Art Unit 2612

NDHH
March 13, 2006

A handwritten signature in black ink, appearing to read 'David Ometz', with a long horizontal flourish extending to the right.

DAVID OMETZ
SUPERVISORY PATENT EXAMINER